IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1947 OF 2004

P. M. Rahate ... Applicant

versus

Hindustan Const.Co.Ltd.

and another ... Respondents

...

Mr. P.M. Rahate in person.

Mr. Sanjog S. Parab, for Respondent No. 1.

Mr. A.S. Gadkari, A.P.P., for Respondent No. 2.

...

CORAM : A.M.KHANWILKAR,J.

21st October 2004

P.C.:

. The Applicant appears in person. In the first place, it is argued that by this petition, two orders are challenged, namely, the order dated 3rd July 2004 and dated 16th July 2004. Insofar as the order dated 3rd July 2004 is concerned, that is passed on an application moved by the Applicant praying that the Respondent Complainant be ordered to produce the record of

retirement of the Applicant. That request has been rejected for reasons recorded by the Court below from para 16 of its decision. In substance, the Court has found that the fact regarding the date of appointment is reflected from the letter of appointment dated 14th January 1970 which is already produced on record, Exhibit 7. That document also spells out the date of superannuation being 60 years. The date of birth of the Applicant is also reflected from the record. In that backdrop, the Court found that from the materials on record, the factum as to the actual date on which the Applicant has attained the age of superannuation is clearly established. It is in that backdrop the Court has declined to issue the direction to Respondent Complainant to produce the record of retirement of the Applicant. No fault can be found with the said approach of the lower Court, for the record of retirement would be only duplicating the materials already on record. Accordingly, no interference is warranted in order dated 3rd July 2004.

. Insofar as order dated 16th July 2004 is concerned, that has been passed on the

application filed by the Applicant praying for adjournment of the case to agitate the issue whether the trial Court had power and jurisdiction to hold enquiry on Exhibit B-7, i.e., letter of appointment. The Court below has considered the relevant aspects and found that it is unnecessary to adjourn the matter to examine the question whether the Court has powers and jurisdiction to hold enquiry on Exhibit B-7, which is an appointment letter dated 14th January 1970. The lower Court has also observed that the case is already an expedited case by the High Court and adjournment on such request cannot be acceded to. In addition to the reasons recorded by the Court below with reference to the said application, Counsel for the Respondent Complainant has invited my attention to the order passed by this Court (Brother Bhosale,J.) dated 7th June 2004 in Criminal Revision Application No. 387 of 2003. Similar technical pleas were taken by the Applicant on the earlier occasion and this Court on examining the proceedings and the conduct of the Applicant had occasion to observe that the Applicant is making calculated attempt to prolong the proceedings, which are under section 630 of the Companies Act. Even if

that reason is not to be reckoned while deciding the present petition, to my mind, no fault can be found with the approach of the Court below in rejecting the request as was made for adjournment.

. Although only two orders are subject matter of challenge in this application, during the course of arguments, the Applicant who appears in person submits that his other grievance was that the Court did not permit him to cross-examine the complainant's witness. Insofar as this grievance is concerned, there is nothing on record to suggest that the Applicant had taken out any application before the trial Court making such request. This grievance is advanced only across the Bar. It appears that this submission is another attempt out of desparation. Accordingly, this petition should fail and the same is dismissed.

(A.M.KHANWILKAR,J.)